THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 18493 OF 2005

DATED: 29-08-2005

Between

M/s. PCH Mobile Zone, Corporate Office at
No. 6-3-648, Padmaja Landmark, Somajiguda,
Hyderabad – 500 082, represented by its
Managing Partner Sri Balvinder Singh, S/o Sri
Huzur Singh, R/o Adarsh Nagar, Hyderabad.

..... PETITIONER

And

1. The Principal Secretary, Dept. of Revenue (CT),
Government of Andhra Pradesh, A.P. Secretariat,
Saifabad, Hyderabad – 500 004 and others.

..... RESPONDENTS

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ORDER: (per Sri B. Sudershan Reddy, J)

Notwithstanding the strenuous contentions urged by Sri C.V. Nagarjuna Reddy, learned counsel for the petitioner, we are not persuaded to accept any one of the contentions.

The impugned order dated 28-07-2005 of the Commissioner of Commercial Taxes, Hyderabad rejecting the representation of the petitioner dated 21-07-2005 to extend the time for submitting claim for sales tax credit is perfectly in conformity with Rule 37(2)(h) of the Andhra Pradesh Value Added Tax Rules, 2005 which reads as follows:

> " a claim for sales tax credit shall be submitted to the authority prescribed within ten days from the date of commencement of the Act. The Deputy Commissioner may, having regard to the circumstances permit the VAT dealer to make the claim after the said ten days but not later than thirty days from the date of commencement of the Act. The approval of the claim for sales tax credit shall be issued on Form VAT 116 not later than

Ninety days from the date of commencement of the Act".

That a plain reading of the Rule suggests that the Deputy Commissioner may exercise discretion and permit the VAT dealer to make the claim after the expiry of ten days of the prescribed time but not later than thirty days from the date of commencement of the Andhra Pradesh Value Added Tax Act, 2005. It is not as if the Deputy Commissioner is clothed with any authority to keep on extending the time. The mandate enshrined in Rule 37(2)(h) of the Rule referred to hereinabove is absolutely clear. The Rule is not susceptible to any interpretation as suggested by the learned counsel for the petitioner.

Sri C.V. Nagarjuna Reddy, learned counsel for the petitioner, however, placed some orders before us wherein the Deputy Commissioner (CT), Charminar Division appears to have extended time for filing VAT 115 up to 20-05-2005 which may as suggested by the learned counsel for the petitioner runs contrary to the Rules but the same cannot be taken as a precedent and we cannot compel the competent authorities to act contrary to law. No writ of Mandamus lies compelling the competent authority to act contrary to law.

For the aforesaid reasons, we are not inclined to grant any order whatsoever to the petitioner in this writ petition. It is entirely a different matter if those proceedings that are presented before us by the learned counsel for the petitioner are impugned. The said orders upon which reliance is placed by the learned counsel for the petitioner are not impugned before us in any one of the writ petitions.

For the aforesaid reasons, no relief could be granted to the petitioner in this writ petition. The Writ Petition shall accordingly stand dismissed.

(B. Sudershan Reddy, J)

29..08..2005

(S. Ananda Reddy, J)

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